

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission
On Its Own Motion

Adoption of 83 Ill. Adm. Code 455

:
:
:
:
:
:
:

10-0109

ORDER

By the Commission:

Pursuant to Public Acts 95-1027, 96-0033, and 96-0159, the State of Illinois' renewable portfolio standard and clean coal standard apply to alternative retail electric suppliers ("ARES") and electric utilities operating outside their service territories.

In a Staff Report dated February 1, 2010 the Illinois Commerce Commission's Energy Division has presented draft rules (designated as 83 Ill. Adm. Code 455) to establish various requirements and procedures for ARES and electric utilities operating outside their service territories relative to the renewable portfolio standard and clean coal standard. General provisions are contained in Subpart A, provisions regarding the renewable portfolio standard are contained in Subpart B, and provisions regarding the clean coal standard are contained in Subpart C. Section 16-115D(e) of the Public Utilities Act provides that by September 1 of each year starting September 1, 2010, ARES shall file a report certifying compliance with Section 16-115D in a format to be specified by the Commission by December 31, 2009. The complexity of the issues inherent in this subject and the effort to fully involve the regulated industry precluded compliance with that date. However, in an effort to implement Section 16-115D as soon as possible, Part 455 is to be adopted on an emergency basis to comply with this directive.

The Staff Reports provides a detailed description of the rules in a Section by Section analysis and provides the rationale supporting the rules. The Commission is satisfied that there is sufficient support in the Staff Report to warrant the initiation of a rulemaking proceeding, to support the adoption of the rules on an emergency basis for a period not to exceed 150 days, and to submit the first notice of proposed rulemaking to the Secretary of State.

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) the Commission has subject-matter jurisdiction;

- (2) use of emergency rulemaking is necessary to effectuate Section 16-115D of the Act;
- (3) 83 Ill. Adm. Code 455, attached as the Appendix to this Order, should be adopted on an emergency basis pursuant to Section 5-45 of the Illinois Administrative Procedure Act and the Notice of Emergency Rules should be submitted to the Secretary of State pursuant to Section 5-45 of the Illinois Administrative Procedure Act;
- (4) the Notice of Proposed Rules for 83 Ill. Adm. Code 455, as reflected in the Appendix to this Order, should be submitted to the Illinois Secretary of State pursuant to Section 5-40 of the Administrative Procedure Act;
- (5) this proceeding should be conducted as a rulemaking;
- (6) the Staff Report dated February 1, 2010 should be made a part of the record of this proceeding.

IT IS THEREFORE ORDERED that 83 Ill. Adm. Code 455, as reflected in the Appendix to this Order, is adopted on an emergency basis pursuant to Section 5-45 of the Illinois Administrative Procedure Act, to be effective February 19, 2010, and that the Notice of Emergency Rules be submitted to the Illinois Secretary of State.

IT IS FURTHER ORDERED that the Notice of Proposed Rulemaking be submitted to the Illinois Secretary of State pursuant to Section 5-40 of the Illinois Administrative Procedure Act to initiate the first notice period for public comment.

IT IS FURTHER ORDERED that the Staff Report dated February 1, 2010 is made a part of the record of this proceeding.

IT IS FURTHER ORDERED that this proceeding is a rulemaking and shall be conducted as such and not as a contested case.

IT IS FURTHER ORDERED that this Order is not final; it is not subject to the Administrative Review Law.

By order of the Commission this 10th day of February, 2010.

(SIGNED) MANUEL FLORES

Chairman